

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ALEJANDRO HERNANDEZ,	)	
	)	Civil Action No. 09 - 324
Petitioner,	)	
	)	Judge Arthur J. Schwab /
v.	)	Magistrate Judge Lisa Pupo Lenihan
	)	
JERRY C. MARTINEZ, UNICOR, and	)	
FAC,	)	
	)	
Respondents.	)	

**ORDER**

The above captioned case was initiated on March 17, 2009, by the submission of a Petition for Writ of Habeas Corpus (Doc. No. 7). It was assigned to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. Judge Arthur J. Schwab was assigned on July 27, 2009.

The Magistrate Judge's Report and Recommendation (Doc. No. 27), filed on March 30, 2010, recommended that Respondents' Motion to Dismiss (Doc. No. 24) be granted and that the Petition for Writ of Habeas Corpus be dismissed for failing to state a claim cognizable under 28 U.S.C. § 2241 without prejudice to Petitioner filing a civil rights action in the correct District Court. The Petitioner was served at his address of record, Northeast Ohio Correctional, 2240 Hubbard Road, Youngstown, OH 44501, and on counsel for the Respondents. The parties were advised they were allowed fourteen (14) days from the date of service to file written objections to the report and recommendation. Petitioner filed timely Objections to the Report and Recommendation (Doc. No. 28) on April 12, 2010. After review of the pleadings and documents

in the case, together with the report and recommendation and objections thereto, the following order is entered:

**AND NOW**, this 16<sup>th</sup> day of April, 2010;


**IT IS HEREBY ORDERED** that Respondents' Motion to Dismiss (Doc. No. 24) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Petition for Writ of Habeas Corpus is **DISMISSED** for failing to state a claim cognizable under 28 U.S.C. § 2241 without prejudice to Petitioner filing a civil rights action in the correct District Court.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 27) of Magistrate Judge Lenihan, dated March 30, 2010, is adopted as the opinion of the court.

Dated: April 16, 2010

By the Court:

  
Arthur J. Schwab  
United States District Judge

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

Alejandro Hernandez  
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